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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: John Franklin Hayhurst GROUP: 3723
SERIAL NO: 10/713,458 EXAMINER: David B. Thomas
FILED: November 14, 2003
FOR: ESCAPE HAMMER

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. §1.137(b)

1. This application became abandoned on May 24, 2005
2. This application became abandoned because the failure to prosecute was an unintentional delay. The delay in filing the required reply from the due date until the filing of this petition was unintentional 37 C.F.R. §1.137(b)(3).

3. Response or action required

X has been filed.

X is attached

_____ The response is the filing of a continuation application having an express abandonment conditioned on the granting of a filing date to the continuing application copending with this application

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on March 15, 2006 in an envelope "Express Mail Post Office to Addressee" Mailing Label Number EV856042167US addressed to Mail Stop RCE Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Molly C. Kelly
Molly C. Kelly

03/17/2006 TBESHAH1 00000019 190079 10713458

01 FC:2453 750.00 DA

4. Fee (37 C.F.R. 1.17(m))

Application Status is:

- ☒ Small business entity -- fee \$750.00
☐ A statement is attached
☒ A statement was filed
☐ Other than small entity -- fee \$1,500.00

5. Payment of fee

☐ Enclosed is a check for \$0.00 to cover the petition fee

☒ The Commissioner is authorized to credit any overpayment and charge any deficiency in fees required to Deposit Order Account No. 19-0079. A duplicate of this petition is attached.

(complete the following, if applicable)

☐ Because this petition is more than 3 months after the date the Office first notified the applicant that the application is abandoned, applicant additionally submits a showing as to how the delay between the date the applicant was first notified that the application is abandoned and the filing of this petition under 37 C.F.R. §1.134(b) was unintentional. 62 Fed. Reg. 53, 131, 53, 159 (Oct. 10, 1997).

☐ Because this petition is more than 1 year after the date of abandonment of the application, applicant additionally submits further information as to when applicant (or applicant's representative) first became aware of the abandonment of the application, and a showing as to how the delay in discovering abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative). 62 Fed. Reg. 53, 131, 53, 159 (Oct. 10, 1997).

Applicant(s) hereby petition for the revival of the above-referenced patent application,
the abandonment of which was unintentional.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Arlene J. Powers', is written over a horizontal line.

Arlene J. Powers
Registration No. 35,985
Gauthier & Connors LLP
225 Franklin Street, Suite 2300
Boston, Massachusetts 02110
Telephone: (617) 426-9180
Extension 110



Office of Abandonment	Application No.	Applicant(s)	
	10/713,458	HAYHURST, JOHN FRANKLIN	
	Examiner	Art Unit	
	David B. Thomas	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 13 October 2004.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

David B. Thomas
Primary Examiner
Art Unit: 3723

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: John Franklin Hayhurst **GROUP:** 3723
SERIAL NO: 10/713,458 **EXAMINER:** David B. Thomas
FILED: November 14, 2003
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Office of Petitions
 Commissioner of Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

COPY

Sir:

LETTER

Further to the communication mailed on January 17, 2006 and in response to the communication indicating that the above identified application has been abandoned due to a non response to the outstanding Office Action, attached hereto is a copy of the amendment mailed on February 14, 2005, the amendment transmittal with a Certificate of Mailing dated February 14, 2005 along with a copy of our receipted postcard which was date stamped by the United States Patent and Trademark Office on February 16, 2005.

Thus, the Applicants' respectfully request that the amendment be entered and the application continue the examination process.

CERTIFICATE OF MAILING (37 CFR 1.8(a))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United State Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petitions, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

 Molly C. Kelly

(Type or print name of person mailing letter)

Date: 1/26/06

 Molly C. Kelly

(Signature of person mailing paper)

If there are any fees associated with this process, the United States Patent and Trademark Office is authorized to charge the deposit order account number 19-0079.

Respectfully submitted,



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